

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

\$167,070.00 IN UNITED STATES
CURRENCY,

Defendant.

STRAUGHN SAMUEL GORMAN,

Claimant.

3:13-CV-00324-LRH-VPC

ORDER

Before the Court is the United States of America's Motion to Amend the Court's Order granting claimant Straughn Gorman's ("Gorman") Motion to Suppress (Doc. #72), or in the alternative, Motion for Stay pursuant to 28 U.S.C. § 1355(c). Doc. #75.¹

On June 12, 2015, the Court granted Gorman's Motion to Suppress under *Rodriguez v. United States*, 135 S. Ct. 1609 (2015), after finding that the two officers who stopped Gorman prolonged the two traffic stops unreasonably and without adequate reasonable suspicion prior to conducting a canine sniff. Doc. #72. The Court directed that "[t]he seized funds shall be returned to Gorman, or his designee, within thirty (30) days" of the Order. *Id.* at 27. Here, the United States requests that the Court amend its judgment to omit the requirement for the government to return the

¹ Refers to the Court's docket number.

1 seized funds within thirty days, or in the alternative, to stay the proceedings while the United States
2 determines whether to appeal the Court's June 12, 2015, Order.

3 A party can seek relief from a district court's order under Federal Rule of Civil Procedure
4 60(b). District courts can also stay proceedings pending an appeal: "Upon motion of the appealing
5 party, the district court . . . shall issue any order necessary to preserve the right of the appealing
6 party to the full value of the property at issue, including a stay of the judgment of the district court
7 pending appeal." 28 U.S.C. § 1355(c).

8 The government requests a stay of the directive to return Gorman's funds while the
9 Solicitor General of the United States determines whether to pursue an appeal. The statute
10 regarding return of property to a successful civil forfeiture claimant provides that "[u]pon the entry
11 of a judgment for the claimant in any proceeding to condemn or forfeit property seized or
12 arrested . . . such property shall be returned forthwith to the claimant or his agent." 28 U.S.C. §
13 2465(a). The United States is correct that this statute requires entry of judgment before the
14 obligation to "forthwith" return funds arises. The Court therefore grants the United States' Motion
15 to Stay. The thirty day period to return the seized funds will not commence until the Court enters
16 final judgment. The Court will not enter judgment until it has decided Gorman's Motion for
17 Attorney Fees. Doc. #73. The United States represents that the Solicitor General is in the process
18 of deciding whether to pursue an appeal, and it would appear that a decision should be made well
19 before thirty days have passed after entry of judgment.

20 IT IS THEREFORE ORDERED that the United States' Motion to Amend or Stay (Doc.
21 #75) is GRANTED in part and DENIED in part.

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1 IT IS FURTHER ORDERED that the Court's directive to return Gorman's seized funds is
2 STAYED until the Court enters final judgment pursuant to 28 U.S.C. § 2465(a). At that time, the
3 government should return Gorman's funds forthwith, and that period shall not exceed thirty (30)
4 days.

5 IT IS SO ORDERED.

6 DATED this 7th day of July, 2015.

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8 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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